

# European Patent System

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## The business perspective



# EUROCHAMBRES

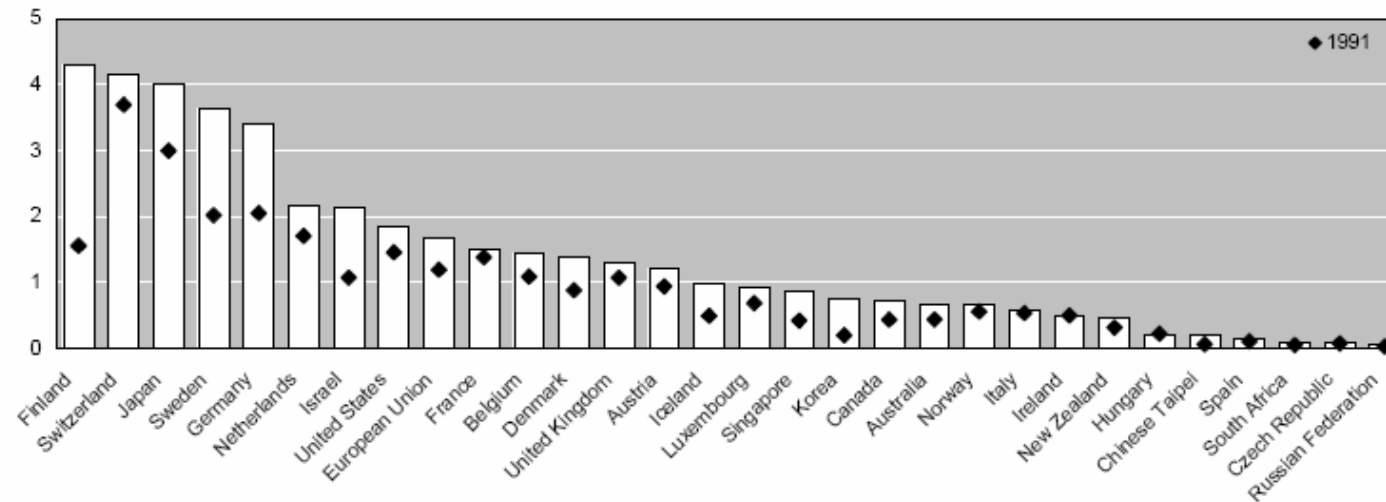
**44 National Chamber Organisations  
2000 regional and local Chambers  
over 18 million member enterprises in Europe**



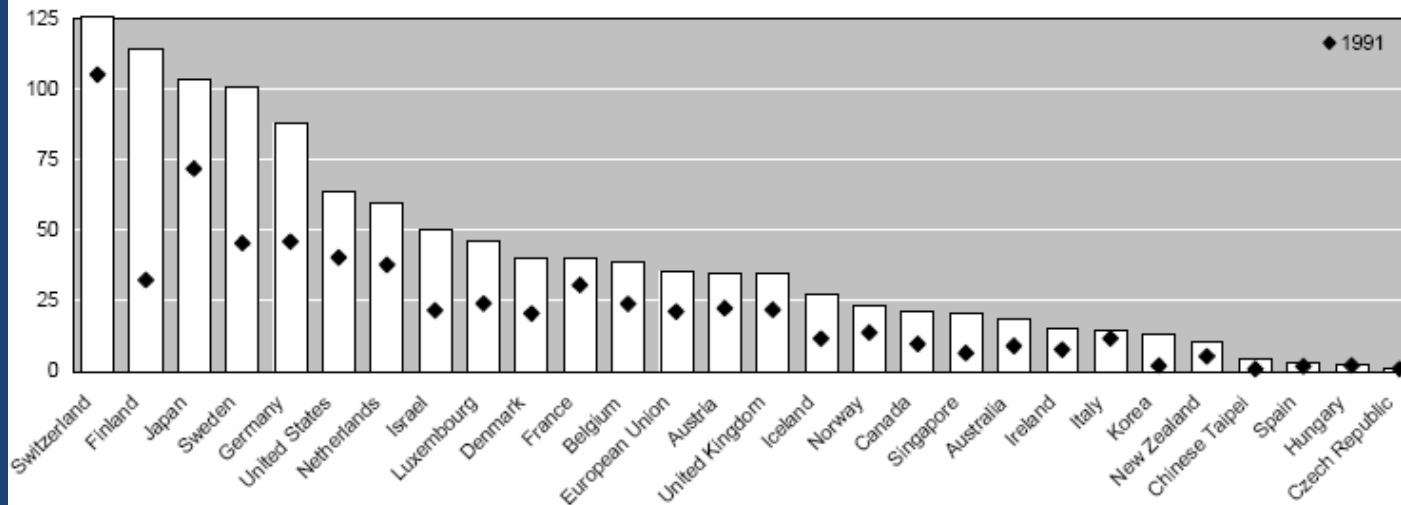
EC Hearing 2006

## 7. Triadic patent families<sup>1</sup>: Patent intensity

Triadic patent families over GDP<sup>2</sup>, 2002



Triadic patent families per million population, 2002



Note: Patent counts are based on the inventor's country of residence, the earliest priority date and fractional counts.

<sup>1</sup> Patents all applied for at the EPO, USPTO and JPO. Figures for 2002 are estimates.

<sup>2</sup> Gross Domestic Product (GDP), billion 2000 USD using purchasing power parities. European Union figure refers to EU 15.

Source: OECD, Patent Database, December 2005.

# Making the patent system... more European

A truly European, integrated and efficient patent system – high quality, cost effectiveness, legal security, readability, accessibility

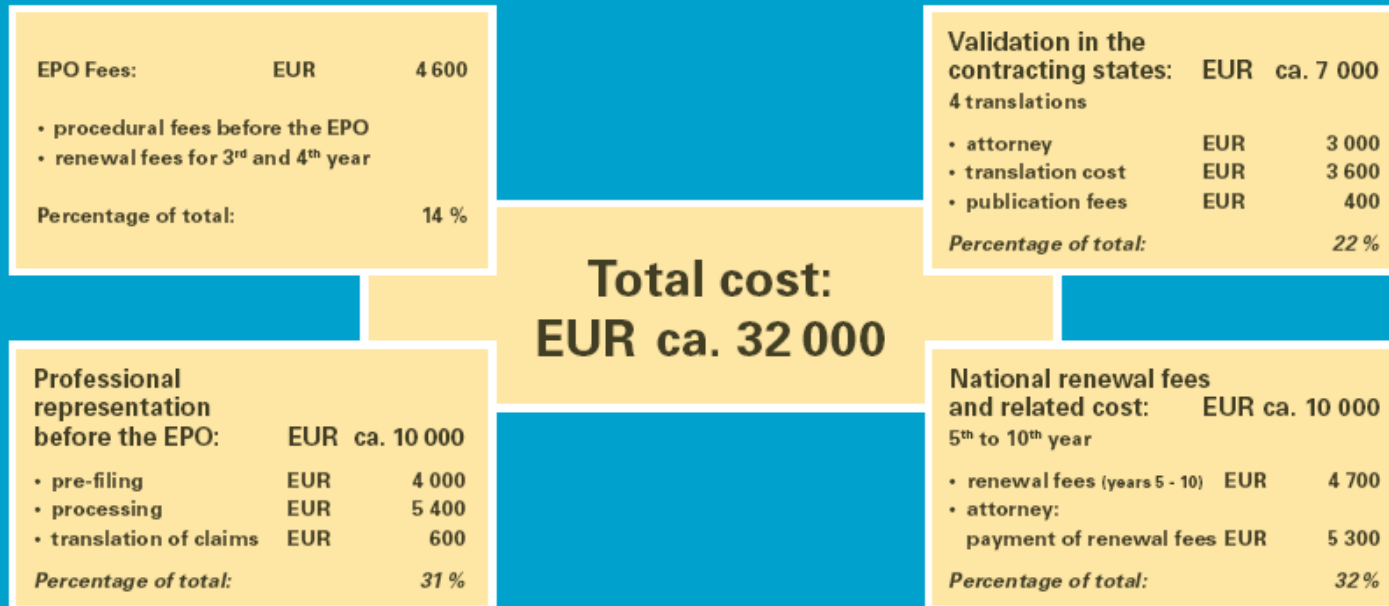
- A European patent: The Community Patent (EC).
- Reducing cost => Easing translation requirements (London Protocol).
- Strengthening legal security: A centralised litigation system (European Patent Litigation Agreement).

# Is patent a cost effective means of protecting intellectual property?

# Cost effectivity



## Cost of a sample European Patent<sup>1</sup>



<sup>1</sup> 18 pages, 6 states, 10-year term, excl. in-house preparation costs for the patentee, all values rounded.

# Cost effectivity



## Cost of a sample Euro-PCT Patent<sup>1</sup>

<b>EPO Fees:</b>	EUR	6 600
• international fees		
• procedural fees before the EPO		
• renewal fees for 3 <sup>rd</sup> and 4 <sup>th</sup> year		
<i>Percentage of total:</i>		14 %

<b>Validation in the contracting states:</b>	EUR	ca. 12 500
6 translations		
• attorney	EUR	4 200
• translation cost	EUR	7 500
• publication fees	EUR	800
<i>Percentage of total:</i>		27%

**Total cost:  
EUR 47 000**

<b>Professional representation before the EPO:</b>	EUR	ca. 12 500
• pre-filing	EUR	5 400
• processing	EUR	6 200
• translation of claims	EUR	900
<i>Percentage of total:</i>		27 %

<b>National renewal fees and related cost:</b>	EUR	ca. 15 500
5 <sup>th</sup> to 10 <sup>th</sup> year		
• renewal fees	EUR	8 500
• attorney: payment of renewal fees	EUR	7 000
<i>Percentage of total:</i>		32%

<sup>1</sup> 26 pages, 8 states, 10-year term, excl. in-house preparation costs for the patentee, all values rounded.

# Cost effectivity

- Internal cost for the company (own « patent » staff)
- Translation of the entire application is mandatory in the language of the country where the protection is required
  - From +/- 2500 € to +/- 5000 € per language
- Maintenance costs/renewal fees
- Attorney costs

# Would patent be no more than a licence to litigate?

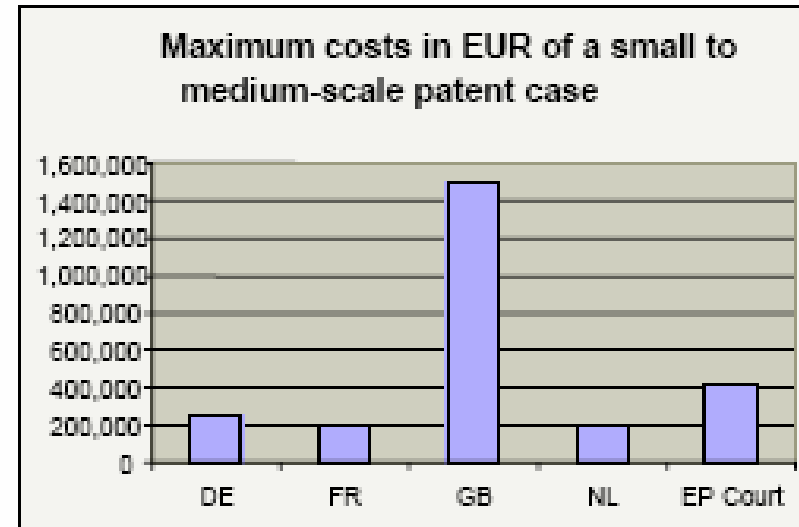
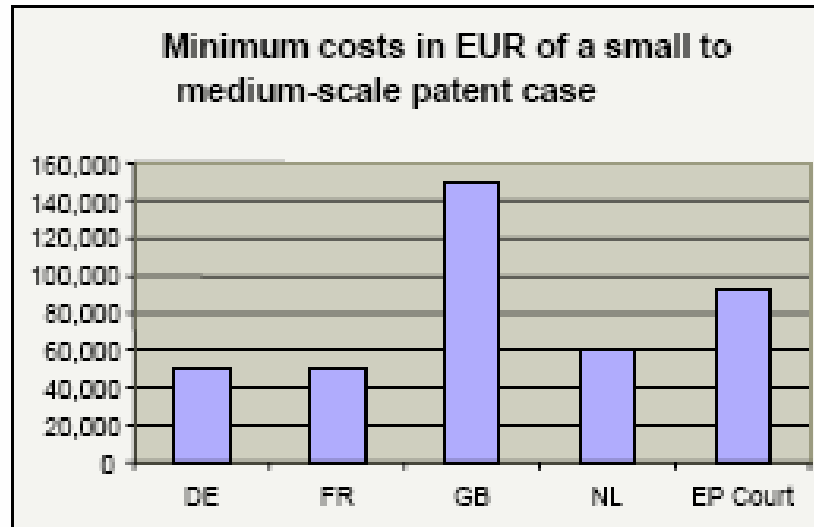
# « A licence to litigate »?

- 2/3 firms experimented attempts to copy
- Financial impact is
  - 46% unimportant or bearable
  - 21% very serious

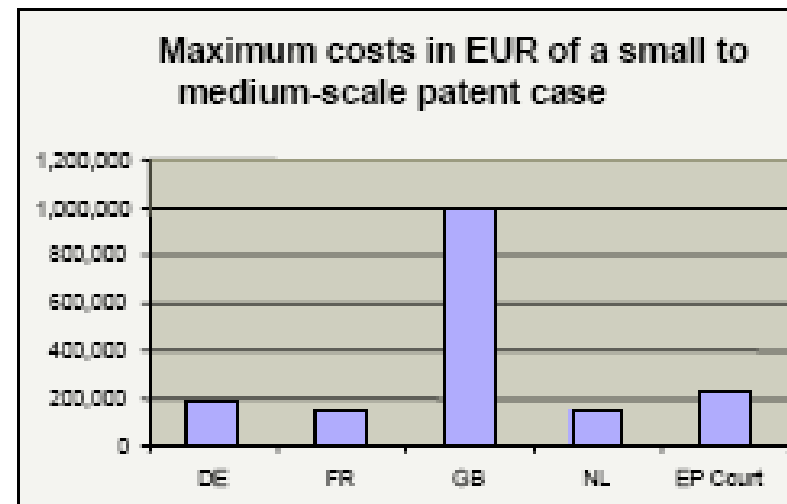
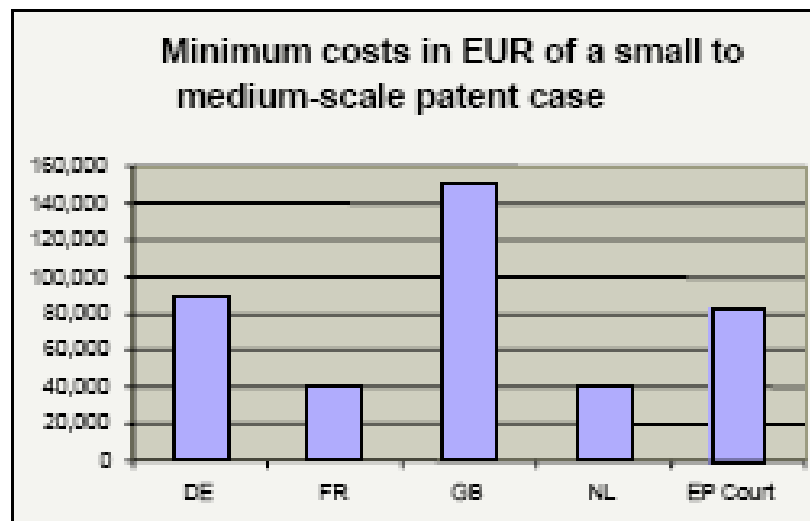
# Alternative

## THE DRAFT EUROPEAN PATENT LITIGATION AGREEMENT (EPLA)

- At an Intergovernmental Conference in June 1999, the member states of the EPO set up a Working Party on Litigation with the mandate to submit to an optional agreement on an **integrated judicial system** for the **settlement of litigation concerning European patents.**



Proceedings before courts of first instance



Proceedings before courts of second instance

# Alternative

- Technical arbitration
- Mediation

# Alternative Dispute Resolution

- When to mediate
  - the cost of litigation is expected to be disproportionate to the claim
  - the parties are deadlocked in settlement negotiations
  - complexities of law, fact or relations are likely to protract proceedings and make any judgement or quantum particularly susceptible to appeal
  - there are multi-actions involving common parties
  - the issues are highly complex and involve multi-parties
  - the issues involved are sensitive or require the disclosure of sensitive information
  - the parties do not wish for any publicity

# Alternative Dispute Resolution

- When mediation is not appropriate:
  - when a legal, commercial or other precedent needs to be set
  - where summary judgement is available quickly and efficiently
  - parties require emergency injunctive or other protective relief
  - where publicity is actively sought
  - where there is no real interest in settlement

# Conclusion

- Strong support on developing an effective patent system in Europe
- A simplified regime must be adopted.
- We opposes any compromise that will make the application for a European patent more expensive than the existing system.
- An efficient system with low costs for legal protection must be made available. Voluntary low cost Alternative Dispute Resolution systems should be encouraged.



<http://www.eurochambres.be>

# THANKS!

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